

FOR THE
SECOND CIRCUIT

Present:

Robert A. Katzmann,
Chief Judge,

Guido Calabresi,
Raymond J. Lohier, Jr.,
Circuit Judges.

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V.

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29-CB-220367

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NATIONAL LABOR RELATIONS BOARD

THIS CAUSE was submitted upon the application of the National Labor Relations Board for entry of a consent judgment against Respondent, Local 713, International Brotherhood of Trade Unions, its officers, agents, and representatives, enforcing its order dated September 9, 2019, in Case No. 29-CB-220367, and upon the record in that proceeding, certified and filed in this Court enforcing the order.

ON CONSIDERATION WHEREOF, it is ordered and adjudged by the United States Court of Appeals for the Second Circuit that the order of the National Labor Relations Board be, and the same is hereby enforced; and that the Respondent, Local 713, International Brotherhood of Trade Unions, its officers, agents, and representatives, shall abide by and perform the directions of the Board set forth in its order. (See Attached Order and Appendix).

Mandate shall issue forthwith.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk




A True Copy

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit




NATIONAL LABOR RELATIONS BOARD

v.

LOCAL 713, INTERNATIONAL BROTHERHOOD OF TRADE UNIONS

ORDER

Local 713, International Brotherhood of Trade Unions, Long Island City, New York, its officers, agents, and representatives shall:

1. Cease and desist from restraining and coercing employees in the exercise of their Section 7 rights, including:
 - (a) Representing employees of Respondent Platinum working at Tower 28, located at 42-12 28th Street, Long Island City, New York for the purpose of collective bargaining.
 - (b) Accepting voluntary recognition from any employer, including Respondent Platinum, at a time when Respondent Local 713 does not represent an uncoerced majority of such employees in an appropriate unit.
 - (c) Executing or giving effect to a collective-bargaining agreement with any employer, including agreements containing a union-security clause requiring membership in Respondent Local 713 as a condition of employment, at a time when Respondent Local 713 does not represent an uncoerced majority of such employees in an appropriate unit.
 - (d) Engaging in all organizational activity in furtherance of becoming the new exclusive collective-bargaining representative of any employees of Respondent Platinum, Dynamic Building Services, Inc., and/or PBS Services Inc. (collectively referred to herein as “the employers”), including entering into collective-bargaining agreements, soliciting union membership and/or authorization cards and/or discussing the benefits of Local 713 membership with any employee employed by Respondent Platinum, Dynamic Building Services, Inc, and/or PBS Services, Inc., for a period of nine (9) months following the signing of this Settlement Agreement by the Regional Director; provided, however,

Respondent Local 713 shall not be required to disclaim interest in any bargaining unit where Respondent Local 713 currently represents an uncoerced majority of the employees. Respondent Local 713 may solicit union authorization cards and discuss benefits of Local 713 membership with any new employees hired into bargaining units covered by collective-bargaining agreements where Respondent Local 713 currently represents an uncoerced majority of employees prior to the approval of this agreement by the Regional Director. Respondent Local 713 is not precluded from renewing collective-bargaining agreements where Respondent Local 713 currently represents an uncoerced majority of employees prior to the approval of this agreement by the Regional Director.

- (e) Using or relying on any Local 713 International Brotherhood of Trade Unions membership cards that were signed on or before the date that Respondent Local 713 signs this Stipulation in an effort to seek certification by the National Labor Relations Board as the exclusive collective-bargaining representative of any Platinum employees for the purpose of collective bargaining.
 - (f) Using or relying on any Local 713 International Brotherhood of Trade Unions membership cards that were signed on or before the date that Respondent Local 713 signs this Stipulation in an effort to seek Platinum's voluntary recognition as exclusive representative of any Platinum employee for the purpose of collective bargaining through a card count performed by an independent arbitrator or any other means.
 - (g) In any other manner restraining or coercing employees of Respondent Platinum or any other employer in the exercise of their right to self-organization, to form labor organizations, to join or assist any labor organization, to bargain collectively through representatives of their own choosing and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any and all such activities.
2. Take the following affirmative action necessary to effectuate the policies of the Act:
- (a) Within 14 days of notification from Region 29 of the amounts due,

reimburse all present and former full-time and regular part-time doormen, unarmed security guards and partners employed by the Platinum Amenity Services at 42-12 28th Street, Long Island City, New York (unit employees) for all dues, initiation fees, and other money paid by employees or withheld from employees' pay pursuant to the November 2017 collective-bargaining agreements between Respondent Local 713 and Respondent Platinum covering unit employees at Tower 28, located at 42-12 28th Street, Long Island City, New York. Respondent Local 713 shall also pay the interest on those reimbursements, pursuant to the rate prescribed in *New Horizons*, 283 NLRB 1173 (1987), compounded daily as prescribed in *Kentucky River Medical Center*, 356 NLRB 6 (2010), enforcement denied sub nom. *Jackson Hospital Corp. v. NLRB*, 647 F.3d 1137 (D.C. Cir. 2011).

- (b) Accept Respondent Platinum's withdrawal of recognition of Respondent Local 713 as the exclusive collective-bargaining representative of unit employees.
- (c) Within 14 days of service by the Region, post at its facility, located at 400 Garden City Plaza, Suite 106, Garden City, NY 11530, copies of the attached notice (Appendix A). Copies of the notice, on forms provided by Region 29, after being signed by Respondent Local 713's authorized representative, shall be posted by Respondent Local 713 and maintained for 60 consecutive days in conspicuous places, including all places where notices to members are customarily posted. In addition to physical posting of paper notices, Respondent Local 713 shall duplicate and mail, at its own expense, a copy of the notice to all current and former unit employees employed by Respondent Platinum since October 24, 2017 to the date of the mailing.
- (d) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that Respondent Local 713 has taken to comply with this Order.
- (e) Within 21 days Respondent Local 713 will schedule with Region 29 of the NLRB a mandatory 45-minute training session for all Local 713 officials, organizers and representatives, to be conducted at Respondent Local 713's office located at 400 Garden City Plaza, Suite 106, Garden

City, NY 11530. The training session will cover “the law of organizing” under the National Labor Relations Act and will include time for questions and answers. A designee of the Regional Director for Region 29 will conduct the training session at an agreed upon date and time. Should the parties fail to agree upon a training date and/or time, the Regional Director of Region 29 shall have sole discretion to select the date and time for the training session. Respondent Local 713 will instruct all Local 713 officials, organizers and representatives that the training session is mandatory. Respondent Local 713 will create an attendance list including the names of all Local 713 officials, organizers and representatives in attendance at the mandatory training and will provide a copy of that document to the Regional Director within 14 days from the day of the training session.

APPENDIX A

NOTICE TO MEMBERS

**POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government**

**PURSUANT TO A STIPULATION PROVIDING FOR A BOARD ORDER
AND A CONSENT JUDGMENT OF ANY APPROPRIATE
UNITED STATES COURT OF APPEALS**

Local 713 is No Longer Your Union at Tower 28

Based on charges filed by Service Employees International Union, Local 32BJ, the National Labor Relations Board and Local 32BJ entered into a settlement agreement with Platinum Amenity Services LTD regarding its Tower 28 building and with Local 713 International Brotherhood of Trade Unions.

In that agreement, Platinum Amenity Services and Local 713 agreed that Platinum Amenity Services no longer recognizes Local 713 as the union representing Platinum Amenity Services concierges/doormen and porters at Tower 28.

The collective-bargaining agreement Local 713 and Platinum Amenity Services signed is no longer in effect. Platinum Amenity Services will no longer take Local 713 union dues out of your paycheck.

Pursuant to that agreement, Local 713 states:

FEDERAL LAW GIVES YOU THE RIGHT TO:

Form, join, or assist a union;

Choose a representative to bargain with your employer on your behalf;

Act together with other employees for your benefit and protection;

Choose not to engage in any of these protected activities.

WE WILL NOT do anything to prevent you from exercising the above rights.

WE WILL STOP enforcing the collective-bargaining agreement with Platinum Amenity Services LTD covering employees employed at Tower 28.

WE WILL NOT charge you union dues or other fees under the collective-bargaining agreement that we had with Platinum Amenity Services LTD at Tower 28.

WE WILL NOT accept recognition from Platinum Amenity Services as your union, or from any other employer, at a time when we do not represent an uncoerced majority of employees in an appropriate unit.

WE WILL NOT sign a collective-bargaining agreement with Platinum Amenity Services LTD covering employees employed at Tower 28, or with any other employer, if we do not represent an uncoerced majority of employees in an appropriate unit.

WE WILL pay you for all union dues and other fees that you paid under the collective-bargaining agreement that we had with Platinum Amenity Services LTD covering the employees at Tower 28.

WE WILL accept Platinum Amenity Services LTD's withdrawal of recognition of Local 713 as the union representing concierges/doormen and porters working at Tower 28, unless and until the National Labor Relations Board certifies Local 713 to be your union

LOCAL 713, INTERNATIONAL BROTHERHOOD OF TRADE UNIONS

The Board's decision can be found at <http://www.nlr.gov/case/29-CB-220367> or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half St., S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

